The STAMP REGULATION AMENDMENT BILL.

Mr. Thanu Pillai.—Before entering upon the next business in the agenda, I beg permission to make a small motion in regard to the Stamp Bill which was referred to a Select Committee at the last meeting. One of the members of the Committee, Mr. Ramanatha Rao, has vacated his seat in the Council. I would move that Mr. Ramier take Mr. Ramanatha Rao's place on the Select Committee.

Mr. Krishnaswamy Rao.—I would add Mr. Sankara Menon also.

Mr. Thanu Pillai.—Yes: By all means.

Seconded by Mr. Nagam Aiya.

Carried.

WILLS BILL.

Mr. Ramier.—I beg to move that the Bill be sent back to a Select Committee for reconsideration. It is not without very great diffidence I venture to make this motion. I am fully alive to the fact that this Bill had engaged the serious attention of the Council at its various stages and ordinarily I should have been very slow in making a motion of the kind. But on a very careful and close study of the Bill, I feel great doubts on some of the most important points involved in the Bill and it is therefore I venture to beg you to give your further consideration to those points. The Bill excludes from its scope the wills of Europeans and Americans. The reason alleged is that they have got their own law on the subject. The first question that suggests itself is 'what is the definition of a European?' Is it meant to denote those of European domicile alone or those of European descent also? I fear there would arise very great difficulty in reference to this question. Many of those in the country who are ordinarily styled Eurasians would be, strictly speaking, Europeans, if by Europeans it is meant Europeans by descent, and, I daresay, it is not intended to exclude them from the scope of this Bill. Again as regards Europeans as ordinarily understood, I believe it is an undoubted law that, on the principle of *lex loci re situ*, it is the law of the country where the immoveable property is situate that ought to apply for testamentary as well as intestate succession of property. If an Englishman owns landed property in British India, it is the Indian Succession Act that will govern the testamentary disposition of that property and not the English Wills Act. Suppose that an Englishman having British Indian domicile owns landed property in Travancore and makes a testamentary disposition of the same. In case of dispute, which law is to govern the same—English law or the Indian succession Act? I think neither of them can strictly apply. It may be said that the principles of the English law or the Indian Succession Act may be followed as the common or unwritten law applying to such people in Travancore. But here again there is another difficulty. I find there are various points of divergence between the English law and the Indian Succession Act in reference to execution, attestation and other matters connected with wills. The following are a few of such diffierences.

1. According to section 50 of the Indian Succession Act a person making the signature for the testator must be some other than the attesting witness. But in England an attesting witness might also be the person who signs for the testator (Vide p. 88. Henderson—Testamentary Devises.)

2. In reference to the position where the signature of the testator has to be affixed; under the Indian Succession Act the signature may be placed any where in the writing; only it should appear that it was intended to give effect to it as a will; whereas under the English Act, the signature "shall be so placed at or after or following or under or beside or opposite to the end of the Will".

3. In reference to the mode of affixing the signatures of the attesting witnesses, the Bombay and Calcutta High Courts have held that under the Indian Succession Act, "It is necessary for the validity of a will that the signature as distinguished from the mere mark, of at least two witnesses, must appear on the will". In England it has been held that a will is sufficiently attested by a mark although the witnesses were capable of writing. (Vide p. 92. Hend.)

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